

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Russo	Team: Squad #10	CCRB Case #: 202107188	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/17/2021 11:39 AM	Location of Incident: § 87(2)(b)	Precinct: 109	18 Mo. SOL 5/17/2023	EO SOL 5/17/2023	
Date/Time CV Reported Wed, 11/17/2021 4:02 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 11/25/2021 8:31 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Arun Arora	22863	962223	109 PCT
2. PO Marlon Castro	05132	960342	109 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Michael Murphy	02347	955240	109 PCT
2. SGT Terrence Villani	02768	946572	109 PCT
3. PO Michael Altieri	27443	963371	109 PCT
4. PO Nicole Berberich	13285	971334	109 PCT
5. PO Brian Porzelt	19537	953266	109 DET
6. LT Michael Kerrigan	00000	941999	109 PCT
7. DTS Stephanie Aull	07752	949696	109 PCT
8. PO Ted Saintgerard	26747	934145	109 PCT
9. PO John Ao	13258	971321	109 PCT
10. PO Andrew Amoroso	07073	961489	109 PCT
11. PO Kevin Farrell	07186	965081	109 PCT
12. PO John Gao	21267	959648	109 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Arun Arora	Force: Police Officer Arun Arora used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
B. PO Marlon Castro	Force: Police Officer Marlon Castro used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
C. PO Arun Arora	Discourtesy: Police Officer Arun Arora spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Case Summary

On November 17, 2021, § 87(2)(b) filed this complaint with the Internal Affairs Bureau via phone. On November 25, 2021, the CCRB received this complaint.

On November 17, 2021, at approximately 11:39 a.m., Police Officers Arun Arora and Marlon Castro, of the 109th Precinct, responded to § 87(2)(b) in Queens, regarding multiple 911 calls, placed by employees, § 87(2)(b) and § 87(2)(b) reporting § 87(2)(b) for harassment. Upon arrival, PO Arora and PO Castro instructed § 87(2)(b) to leave the location, but § 87(2)(b) to stay and wait for his boss. When placing § 87(2)(b) under arrest for trespassing, PO Arora and PO Castro conducted a takedown, which resulted in § 87(2)(b) hitting his head on the ground and sustaining a laceration to his forehead (**Allegations A and B: Force-Physical Force**, § 87(2)(g)). When landing on the ground, PO Arora instructed § 87(2)(b) to “get the fuck up” (**Allegation C: Discourtesy-Word**, § 87(2)(g)). After placing § 87(2)(b) in handcuffs, the officers called an ambulance in order to provide medical attention to § 87(2)(b).

Additional units arrived on scene, including Police Officers Michael Altieri, Glenn Mendez, Nicole Berberich, Brian Porzelt, Stephanie Stewart (Now Detective Stephanie Aull), Ted Saintgerard, John Ao, Andrew Amoroso, Kevin Farrell, John Gao, Lieutenant Michael Karrigan, and Sergeant Terrence Villani. The EMTs tended to § 87(2)(b)'s injury and escorted him to § 87(2)(b) Hospital.

§ 87(2)(g), § 87(4-b)

As a result of this incident, § 87(2)(b) was arrested for resisting arrest, criminal trespassing, disorderly conduct, and official misconduct (**BR01**).

The investigation obtained BWC from the responding officers (**BR02**), as well as a cell phone video taken by § 87(2)(b) (**BR03**). The relevant footage will be discussed below.

Findings and Recommendations

Allegation (A) Force: Police Officer Arun Arora used physical force against § 87(2)(b)

Allegation (B) Force: Police Officer Marlon Castro used physical force against § 87(2)(b)

Allegation (C) Discourtesy: Police Officer Arun Arora spoke discourteously to § 87(2)(b)

§ 87(2)(b) (**BR05**) is a 5'7" tall male, who weighs about 224 pounds, and was 64-years-old at the time of this incident. During his CCRB interview, he stated that he was at the location to address some money that had been stolen from him. While at the location, he engaged in a verbal dispute with a female manager, § 87(2)(b). The parties raised their voices at each other, with employees intervening. They told § 87(2)(b) to wait by the boss's office, which he did. None of the employees told § 87(2)(b) to leave the premises. After waiting at the location for about 20 minutes, two police officers approached § 87(2)(b). He did not understand them, but an employee at the agency was translating for him. The officers told § 87(2)(b) to leave one or two times and did not say anything else. § 87(2)(b) told them he was waiting for the boss. § 87(2)(b) stood up and walked to the receptionist area, where he intended to wait for the boss. The officers followed § 87(2)(b) reiterating that he had to leave the building. § 87(2)(b) refused, stating that he had a right to be there. The officers reached for § 87(2)(b)'s hands, attempting to help him stand up and place his arms behind his back. However, since § 87(2)(b) was 224 pounds, they were unable to lift him. The officers pulled § 87(2)(b) down to the ground by his hands. § 87(2)(b)'s hands hit the floor first, with his body following after. He landed faced down. The officers were not making any statements to § 87(2)(b) as they tried to gain control of his body. § 87(2)(b) was not doing anything with his body, including stiffening his arms or trying to move away from the officers. § 87(2)(b) obtained an inch long laceration on the center of his forehead.

He began bleeding and fainted soon after. § 87(2)(b) was uncertain of the extent of his injuries, as he was still recovering. § 87(2)(b) was unable to remember the rest of the encounter.

§ 87(2)(b)'s medical records, obtained from § 87(2)(b) note, on Page 12 of the document, that § 87(2)(b)'s chief complaint was a fall with a head injury. The following page notes that § 87(2)(b) was seen immediately due to the high probability of imminent or life-threatening condition of his injury. As per EMS and the police, § 87(2)(b) was not cooperating at an office building, after which officers placed him in handcuffs. They forced him down, where § 87(2)(b) hit his head. Page 14 notes that § 87(2)(b)'s head had swelling and tenderness in the scalp, with a 4 cm laceration to his right forehead. The doctor's plan is noted at the bottom of the page and continues to Page 15. § 87(2)(b) noted that § 87(2)(b)'s CT scan did not show any fractures or dislocations in the spine, chest, abdomen, or pelvis. § 87(2)(b) was moving his torso but not his extremities. § 87(2)(b) was later able to move his arms and his lower extremities. He was taken into surgery to repair his laceration.

§ 87(2)(b) (BR07) stated that § 87(2)(b) was speaking to the manager of the company in her office. § 87(2)(b) and other employees in the office heard § 87(2)(b) screaming. She approached the manager's office, where other employees were also gathering. The employees told § 87(2)(b) to leave the premises. § 87(2)(b) does not speak much English, but he understands it well. § 87(2)(b) refused to leave, as he wanted to wait for the boss. Although the boss was not present, § 87(2)(b) refused to leave and/or make arrangements to schedule an appointment at a later time. He sat in a chair in front of the boss's office, which is different than the manager's office. The employees asked § 87(2)(b) to leave at least 10 times and threatened to call the police if he did not comply. § 87(2)(b) yelled that he was not moving. § 87(2)(b) and her colleague, § 87(2)(b) called 911, reporting an employee who refused to leave.

After about 15 minutes, PO Castro and PO Arora arrived and asked § 87(2)(b) to leave. She believed § 87(2)(b) understood the officers because he responded, "no" to the officers' commands. There were also two employees present that were translating for § 87(2)(b). The officers attempted to lift § 87(2)(b) off the chair, after which § 87(2)(b) ran to the receptionist area. The officers followed him there and asked him to leave. § 87(2)(b) said in Chinese that he was not leaving. The officers asked § 87(2)(b) to stand up, and he refused. The officers attempted to handcuff § 87(2)(b) while he was sitting by placing the handcuffs on one wrist and trying to grab the other wrist from behind him. § 87(2)(b) was resisting by shaking his body, which made it difficult for the officers. The officers attempted to lift § 87(2)(b) off of the chair by his two arms. § 87(2)(b) continued resisting, standing firmly on the ground, closing his hands in fists beside him, and refusing to move. The officers told § 87(2)(b) to leave peacefully, or they would have to physically arrest him. The combination of § 87(2)(b)'s firm stance and the officers pulling him forward caused him to fall headfirst to the ground. § 87(2)(b)'s head began bleeding. As the officers finished handcuffing § 87(2)(b), § 87(2)(b) grabbed tissues from the office to stop the bleeding. § 87(2)(b) believed that § 87(2)(b) lost consciousness for about a minute because he was unresponsive and immobile for a short time. After the fall, § 87(2)(b) was sitting down, not saying anything or moving. EMS arrived, treated § 87(2)(b) and removed him from the premises.

§ 87(2)(b) (BR08) stated that while working, he heard loud screaming coming from the agency's accounting department. When he approached, he saw § 87(2)(b) screaming at three to four women in a threatening tone, using a Chinese dialect that § 87(2)(b) did not understand. The women were crying hysterically. § 87(2)(b) believed § 87(2)(b) was there due to an issue with his paycheck. § 87(2)(b) told § 87(2)(b) to leave the premises and § 87(2)(b) refused. Multiple other employees asked him to leave, as well, and he continued to refuse. § 87(2)(b) took an office chair and sat in front of the boss's office. § 87(2)(b) and multiple other employees called 911. Two officers arrived and spoke with § 87(2)(b) attempting to calm him down. The officers were very nice and patient, attempting to de-escalate the situation. § 87(2)(b) continued screaming, stating he had to talk to the boss. After approximately 15 minutes, § 87(2)(b) stood up and walked to the reception area. The officers followed and continued asking him to leave, but § 87(2)(b) refused. The two officers

attempted to help § 87(2)(b) stand up, and § 87(2)(b) refused to comply by pulling his arms away from their grasps and making his body “dead weight.” The officers pulled § 87(2)(b) up to his feet and it appeared as though all three individuals lost their balance, causing § 87(2)(b) to fall forward and “crack his skull open.” The officers placed § 87(2)(b) into handcuffs and called an ambulance. About four to five other officers arrived on scene. The ambulance arrived soon after the interaction. The EMTs tended to § 87(2)(b)’s wound, after which he was removed from the premises.

PO Arora (**BR09**) stated that he and PO Castro responded to a harassment call at the incident location. Upon arrival, the two 911 callers informed the officers that § 87(2)(b) was being aggressive—yelling, screaming, banging on walls, refusing to leave, and making everyone feel unsafe. When the officers approached § 87(2)(b) he was sitting down in front of the head of the company’s office. The officers told § 87(2)(b) to leave multiple times, but § 87(2)(b) continuously refused, stating that he would wait for his boss. Although the officers believed § 87(2)(b) understood them, given his responses to their commands, they asked employees to translate for § 87(2)(b). The employees agreed to translate, ensuring that § 87(2)(b) understood that the officers had instructed him to leave. § 87(2)(b) continued refusing to leave.

After about 15 minutes, § 87(2)(b) moved to the receptionist area of the office, where he sat down. § 87(2)(b) yelled at the officers when they kept instructing him to leave, stating, “no,” and that he would wait for his boss. Given § 87(2)(b)’s continual refusal to leave the premises, the officers decided to place him under arrest for trespassing. PO Arora, who was on his right side, managed to place a handcuff on § 87(2)(b)’s right wrist. He called for an additional unit just prior. PO Castro was on § 87(2)(b)’s left side, attempting to gain control of his left arm. § 87(2)(b) was resisting by stiffening his arms and preventing the officers from placing them behind his back. § 87(2)(b) attempted to push PO Castro by conducting an elbowing motion, where his left arm was at chest level and bringing it forward. The officers lifted § 87(2)(b) off of the chair and conducted a tactical take down by pulling his arms forward and pulling him by his shoulder, upper arm, back area toward the ground, after which § 87(2)(b) landed head-first. § 87(2)(b) continued screaming, but PO Arora did not recall his exact statements. The officers told § 87(2)(b) to put his hands behind his back, which § 87(2)(b) did do. The officers brought § 87(2)(b) from a seated position to the ground, without him standing up in between.

Upon landing, the officers secured his handcuffs. PO Castro noticed blood coming from § 87(2)(b)’s head, after which they flipped § 87(2)(b) onto his side. There was a small amount of blood on the ground and around the laceration on his forehead. PO Arora did not recall the size of the laceration. PO Arora immediately requested medical attention, and PO Castro obtained paper towels to apply pressure to the wound. They left § 87(2)(b) on his side to ensure that he could breathe. They also called for a supervisor. Upon hitting the ground, § 87(2)(b) was quiet but conscious—made apparent by his blinking. When EMS arrived, they placed § 87(2)(b) on a gurney and escorted him to the hospital.

PO Castro’s statement (**BR10**) was generally consistent with PO Arora’s.

The cell phone video provided by § 87(2)(b) (**BR03**), captures the events just before § 87(2)(b)’s take down. At the 01:37 mark, § 87(2)(b) repeatedly screams the same phrase in Mandarin. PO Arora is on § 87(2)(b)’s right side, while PO Castro stands on § 87(2)(b)’s left side. Each officer is holding § 87(2)(b)’s arm on their respective side. § 87(2)(b) is holding his arms toward his chest. At the 01:58 mark, PO Arora secures a handcuff on § 87(2)(b)’s right hand and tells PO Castro that he “got one.” PO Arora pulls § 87(2)(b) forward by his right arm, while PO Castro pulls § 87(2)(b) forward by pulling his left arm and his back, by his left shoulder blade. § 87(2)(b)’s body lifts and propels forward, as he lands faced down. It is unclear if § 87(2)(b) stood up on his own, adding to the momentum of the officers’ pulling him, or if the officers’ pulling alone brought him to the ground. Given the angle of the camera, § 87(2)(b)’s upper body is not captured during the fall. The officers place § 87(2)(b) in handcuffs while he is faced down on the ground. At the 2:19 mark, the officers flip § 87(2)(b) onto his back. A small pool of blood is seen on the floor where § 87(2)(b)’s head was. § 87(2)(b) is moving his legs just before the video concludes.

PO Arora's BWC (**BR04**) documents the officers' interaction with § 87(2)(b) entirely. At the 01:00 mark, § 87(2)(b) tells the officers that § 87(2)(b) is a contractor that they paid for a job. She and § 87(2)(b) state that they asked § 87(2)(b) to leave, and he refused to do so. § 87(2)(b) states that they called for the police because the people upstairs were afraid. At the 03:15 mark, PO Arora and PO Castro approach § 87(2)(b) who is sitting in front of the closed door of an office. PO Castro tells § 87(2)(b) that he needs to leave. § 87(2)(b) asks why, and PO Castro tells him that "they" do not want him there. § 87(2)(b) asks why again. PO Arora tells § 87(2)(b) that he can talk to the boss when he arrives, but he cannot just wait in the office. § 87(2)(b) says no. The officers tell § 87(2)(b) that he is being disruptive. PO Arora asks an employee to translate for him, and the employee tells § 87(2)(b) something in Mandarin. § 87(2)(b) remains in the same spot, refusing to leave. At the 06:57 mark, after the officers repeatedly ask § 87(2)(b) to leave, PO Castro asks the employee in charge if they want § 87(2)(b) out, which he and the employees around him confirm. § 87(2)(b) refuses to comply with the officers' orders to leave, repeatedly saying, "no," and remaining in his seat.

At the 07:30 mark, § 87(2)(b) stands up and walks to a reception area within the same office, where he sits down. The officers follow him and tell him to leave. § 87(2)(b) repeatedly asks why. At the 08:40 mark, PO Castro tells § 87(2)(b) that if he does not leave, he will be arrested. An employee translates for him, and § 87(2)(b) states that he was not guilty. At the 09:26 mark, an employee translates to § 87(2)(b) that the officers said either he leaves, or they make him leave. § 87(2)(b) responds that he is fine and to arrest him. At the 09:40 mark, PO Castro tells § 87(2)(b) to stand up and grabs his left wrist. PO Arora tells § 87(2)(b) to give him his phone. § 87(2)(b) folds his arms and keeps them close to his chest. § 87(2)(b) pulls away and stiffens his arms as the officers try to grab them. At the 10:37 mark, while the officers struggle to grab § 87(2)(b)'s arms, a female employee begins crying and screaming in Mandarin. The employee that was translating says that she wants him to leave. The officers continue reaching for § 87(2)(b)'s arms and he holds them close and stiff against his body. At the 12:51 mark, PO Castro pulls § 87(2)(b)'s left arm from in front of him and brings it toward his side. § 87(2)(b)'s arm is stiff the entire time. PO Arora pulls § 87(2)(b)'s right arm, while PO Castro pushes § 87(2)(b)'s left shoulder forward. PO Arora says, "on the ground." § 87(2)(b) springs forward and lands on the ground headfirst. At the 12:57 mark, PO Arora says, "get the fuck up." A female is screaming and crying loudly in the background. The officers bring § 87(2)(b)'s arms behind his back and place him in handcuffs. They flip § 87(2)(b) onto his side and a small pool of blood is visible on the floor. PO Castro asks for napkins, and he presses on the wound. At the 13:41 mark, PO Arora calls for an ambulance. At the 14:07 mark, PO Arora confirms that § 87(2)(b) was breathing. PO Castro and the employees try to speak with § 87(2)(b) who is unresponsive. § 87(2)(b) does not move or say a word throughout the remainder of the incident.

Threat, Resistance, and Injury Incident Report § 87(2)(b) (**BR11**) is consistent with the officer statements, noting that § 87(2)(b) continuously refused to leave, after which the officers used minimal force to conduct a forcible takedown, and § 87(2)(b)'s head made contact with the ground. § 87(2)(b) had a laceration and bleeding on his forehead. The officers placed a cloth on the wound, called for an ambulance, and he was rushed to § 87(2)(b) for treatment. § 87(2)(b) received five stitches to his forehead.

PO Castro's MOS photograph (**BR23**) notes that he is a 5'5" tall Hispanic male, with black hair, black eyes, and weighs 155 pounds. PO Arora's MOS photograph (**BR24**) notes that he is a 5'9" tall Asian male, with black hair, brown eyes, and weighs 170 pounds.

Patrol Guide procedure 200-02 notes that the NYPD's mission is to protect the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. In doing so, they pledge to maintain a higher standard of integrity than is generally expected of others (**BR12**).

Patrol Guide Procedure 221-01 states that when determining if force is reasonable, uniformed members of service should consider the following: "The nature and severity of the crime/circumstances, Actions taken by the subject, Duration of the action, Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, Whether the

subject is actively resisting custody, Whether the subject is attempting to evade arrest by flight, Number of subjects in comparison to the number of MOS, Size, age, and condition of the subject in comparison to the MOS, Subject's violent history, if known, Presence of hostile crowd or agitators, Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.” (BR13).

Patrol Guide Procedure 221-02 states that when a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should comply with P.G. 221-01 and do the following: Take necessary action to protect life and personal safety of all persons present, including subjects being placed into custody and utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force, among other additional steps. MOS should consider whether a subject's lack of compliance is a deliberate attempt to resist, or alternatively, an inability to comply, resulting from factors including, but not limited to, medical condition, mental impairment, developmental disability, physical limitation, language barrier, and/or drug interaction. (BR14).

Disciplinary Case 2013-10143 found that profanity among officers is found to be permissible where the officer has resorted to such language in the heat of a highly stressful or dangerous situation or to serve a law enforcement purpose (BR15).

It was undisputed that employees told PO Arora and PO Castro that they wanted § 87(2)(b) to leave the premises. § 87(2)(b) who weighed approximately 224 pounds, refused to comply with the employees' requests to leave. PO Arora and PO Castro told § 87(2)(b) to leave the premises in English and had employees translate their commands in Mandarin, clearly indicating that he had to leave, or he would be arrested. § 87(2)(b) continued refusing and PO Arora and PO Castro determined that he was under arrest for trespassing. When PO Arora and PO Castro attempted to lift him from the chair, § 87(2)(b) tensed his body and held his hands to his chest. § 87(2)(b) abruptly stood up, causing him to fall headfirst to the ground. § 87(2)(b) sustained a laceration to the right side of his head as a result.

While it was undisputed that employees interpreted for the officers and told § 87(2)(b) that he needed to leave, neither PO Castro nor PO Arora were native Mandarin speakers and could not have been certain of what was conveyed to § 87(2)(b) what § 87(2)(b) was saying to them, or what § 87(2)(b) intended to do. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

As noted above, § 87(2)(b) physically resisted PO Arora and PO Castro's attempts to place him in handcuffs. After § 87(2)(b) fell to the ground and landed on his head, he was not moving, and other employees were screaming loudly. Given his prior non-compliance, the likelihood that he had sustained a serious head injury, and the other employees' reactions, the investigation determined this to be a high stress and dangerous situation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been named a party (**BR16**).
- Police Officer Arun Arora has been a member of service for five years. He has been named the subject in one other CCRB complaint and one allegation, which has not been substantiated. § 87(2)(g)
- Police Officer Marlon Castro has been a member of service for six years. He has been named the subject in one other CCRB complaint and one allegation, which has not been substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation
- On September 26, 2022, the investigation received confirmation from the Office of the New York City Comptroller that § 87(2)(b) has not filed a notice of claim regarding this incident (**BR17**).
- § 87(2)(b)

Squad: 10

Investigator: Jessica Russo Inv. Jessica Russo 10/12/2022
Signature Print Title & Name Date

Squad Leader: Maura R. Roche IM Maura R. Roche 10/12/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date